THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.5167 OF 2006

Dated: 16-03-2006

Between

M.A. Muzaffer Ali,

S/o. Mohammed,

Occ: Business,

Proprietor Metal Engravers

Mulgi No.22-5-231, Kali Kaman,

Gulzar Hauz, Hyderabad.

...PETITIONER

AND

The Commissioner,

Municipal Corporation of Hyderabad,

Office at Tank Bund, Hyderabad

and others.

...RESPONDENTS

ORDER:

Petitioner seek a Writ of Mandamus to declare the proposed action of the respondents 1 and 2 to demolish the mulgi bearing Municipal No.22-5-231, situated at Kali Kaman, Gulzar Hauz, Hyderabad in collusion with the third respondent without giving notice to him for road widening programme as illegal and arbitrary.

Heard the learned counsel for the petitioner as well as the learned standing counsel for the respondents.

Learned counsel for the petitioner submits that the petitioner is the tenant of the aforementioned premises since a very long time as his father obtained the said mulgi on rent from the third respondent and the rent was enhanced from time to time. The learned counsel further submits that the respondents 1 and 2 in collusion with third respondent intends to acquire the mulgi for road widening programme and thereafter the respondents 1 and 2 along with their staff visited the mulgi of the petitioner on 14.03.2006 and attempted to demolish the shop of the petitioner.

The main grievance of the petitioner is that the respondents have not issued any notice before deciding to demolish the said shop and they are trying to demolish the shop for the purpose of widening the road without acquiring the property as contemplated under Chapter V of the Hyderabad Municipal Corporations Act, 1955 (for short 'the Act') or under the Land Acquisition Act, without following due procedure prescribed under law, which action is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Act.

No doubt widening/laying of the road is in the public interest. While laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law. The petitioner being an interested party, he is entitled for a notice before proceeding to demolish the said shop. This Court disposed of a number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law or private negotiations.

Having regard to the facts and circumstances of the case,
the writ petition is disposed of directing the respondents not to demolish the premises of the petitioner or dispossess him without following due process of law either under Section 146 or 147 of the Act or by way of private negotiations or by initiating the proceedings under the

Land Acquisition Act, 1894.

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V. ESWARAIAH, J

March 16, 2006

Note: Furnish C.C. of the order by 17.03.2006

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